The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

D.T.E. 05-49 October 31, 2005

Petition of Blackstone Gas Company, pursuant to G.L. c. 164, § 94A, for approval by the Department of Telecommunications and Energy of a three-year gas supply contract with Amerada Hess Corporation.

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FOR: Blackstone Gas Company
Petitioner

I. INTRODUCTION

On July 25, 2005, Blackstone Gas Company ("Blackstone" or "Company"), pursuant to G.L. c. 164, § 94A, filed a petition with the Department of Telecommunications and Energy ("Department") for approval of a three-year gas supply contract with Amerada Hess Corporation ("Hess"). On August 23, 2005, pursuant to notice duly issued, the Department held a public hearing to afford interested persons the opportunity to comment on the Company's proposal. There were no comments or petitions to intervene in this proceeding.

On September 19, 2005, the Department held an evidentiary hearing. The Company presented the testimony of Arthur Freitas, analyst, from La Capra Associates, Inc. The evidentiary record consists of ten exhibits. There were no record requests and briefs were not filed.

II. DESCRIPTION OF THE PROPOSED AGREEMENT

A. Request for Proposals Process

In securing an adequate gas supply contract to replace the Company's current contract for gas supply with Duke Energy due to expire on October 31, 2005, Blackstone conducted a competitive bidding process through the issuance of a request for proposals ("RFP") (Exh. A; Tr. at 12). Blackstone asserts that the RFP process, initiated on April 7, 2005, was fair, open, and transparent (Exh. DTE 1-2). In addition, Blackstone noted that: (1) the Company did not receive any complaints regarding its competitive bidding process; (2) potential bidders were afforded an opportunity to seek clarification regarding the RFP; and (3) the due date for bids was extended several days beyond expiration at the request of a potential bidder in order to give all potential suppliers an opportunity to develop a responsive bid (id.; Tr. at 7). The Company states that its RFP solicited a supplier that would serve all of the Company's requirements (i.e., an "all-requirements" contract), including load growth, for a three-to-five year period (Exh. A). The Company states that the chosen bidder would also be responsible for daily nominations of gas to Blackstone's citygate (id.). The Company sent the RFP to eight suppliers and received two responses (id.).

Blackstone states that the Company currently possesses firm transportation and storage contracts with Tennessee Gas Pipeline Company ("Tennessee") that cover a portion of its load obligation (id.; Tr. at 7-8). Therefore, Blackstone states that the Company crafted its RFP so as to take advantage of the Company's storage and transportation contracts (id.). Thus, the Company structured its RFP in two tiers: (1) under the first tier for base gas supply, the supplier would use the Company's existing transportation and storage with Tennessee; and (2) under the second tier for peaking supply, the supplier would be required to provide gas to Blackstone's citygate (Tr. at 8). Specifically, Blackstone states that its RFP requested that potential bidders submit price proposals under two parts: (1) one price for base load up to 518 MMBtu/day for "base load" supply; and (2) another price for quantities exceeding 518 MMBtu/day for "peak load" supply (Exh. A). The Company states that the size of the base load was chosen to coincide with Blackstone's transportation contract with Tennessee (id.).

The Company also states that it holds a combined 518 MMBtu/gas per day of firm transportation from the Gulf of Mexico and storage from Appalachia (id.). Blackstone notes that it would assign the transportation and storage contracts to the winning supplier, to be used at the supplier's "best discretion," to supply the base load portion of Blackstone's daily requirements (id.). Blackstone states that it structured its RFP such that the price of the base load gas is determined by the market price of gas measured at the Tennessee 500 Leg market index, plus a fixed adder that the suppliers bid (id.). The Company further states that the fixed adder includes all delivery costs to Blackstone's citygate, and a profit for the supplier (id.). The Company states that all transportation and storage contracts are "subsumed" in the fixed adder (id.).

Regarding Blackstone's gas requirements above 518 MMBtu/day, the Company requested suppliers to submit bids that covered all costs for gas supply delivered to Blackstone's citygate, including capacity (id.). Blackstone asked suppliers to submit a publicly available market index as the basis for the cost of the peaking supply, as well as a fixed adder, to cover all costs to deliver the gas (id.). Blackstone states that the choice of what market index to use for peaking supply was left to the supplier, but the Company also notes that whatever index was chosen by the supplier, the suppliers were asked to provide historical data for the particular index chosen (id.). Finally, Blackstone adds that the Company also invited suppliers to provide a fixed price for peaking supply (id.).

B. The Hess Contract

Blackstone states that, based on the two competing bids, Hess was chosen by the Company as the wining bidder (Exhs. A; C (confidential)). Blackstone argues that Hess's bid was superior to the supplier not chosen because Hess's bid was for a fixed period of three years, whereas the non-selected bidder did not specify a duration but rather "proposed as an ongoing relationship" (id.). The Company states that Hess agreed to supply Blackstone with 2,000 MMBtu per day, which the Company claims is "more than adequate" to cover its current load and potential load growth (id.). Blackstone further reports that, while both bids were priced at the first of the month at the same pipeline, the non-selected supplier's bid stated that for any incremental volumes above the base load (i.e., peaking supply), the supplier would charge the Company at the daily index price for gas nominated for a peaking requirements day (rather than at the first of the month as Hess proposed) (id.). Specifically, under the Hess contract, the Company will pay an index price for the commodity cost of gas, which is a publicly available market index (Tr. at 8). The Company then pays an adder on the market index, which covers transportation costs, any overruns that may occur, fuel losses, and balancing fees (i.e., the Company pays the price of the market index times the metered usage plus the fixed adder times the metered usage) (id.). Therefore, Blackstone asserts that any problems associated with nominations, overrun charges, and penalties do not flow through to customers due to the fixed adder (id.).

Regarding peaking supply, Blackstone notes that because the Company does not have firm transportation and storage for its peaking supply requirements, any selected supplier would be required to deliver peak supply to Blackstone's citygate (id. at 9). Therefore, Blackstone states that Hess's peaking supply bid included a choice for the Company between one of two indices, both first of the month but at points on pipelines with different added fees (Exhs. A; C (confidential); Tr. at 9). Blackstone represents that, in deciding between Hess's two proposed alternatives, the Company examined and found that, over the past three years, the maximum average differential between Hess's two offered indices was $2.60/dekatherm ("Dth") (Exhs. A; C (confidential)).[1] Thus, Blackstone chose the index with the lower added fee as the most economic choice for the Company's ratepayers (Exhs. A; C (confidential)).

Moreover, in selecting Hess's proposal over the other competing bidder, the Company argues that, while the base load portion is similar, the competing bidder proposed that Blackstone would be liable for all "balancing" and "cash out" fees (id.). Moreover, the Company represents that while Hess's adder fee is fixed, the competing bidder's adder fee was not, and would change depending on both monthly volumes delivered and the market price of gas (id.). Hence, the Company contends that the variable fuel portion of the competing supplier's bid would be especially sensitive to predicted high gas prices (id.). Accordingly, Blackstone argues that, because Hess's proposal was an "all-in" price, it was less risky economically and, therefore, the more superior bid (id.).

III. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under G.L. c. 164, § 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, a local gas distribution company ("LDC") must show that the

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1 Blackstone further demonstrates that, in all but three months over the past three years, the difference was below $3.00/Dth with most months "significantly below" $3.00/Dth (Exh. A).

acquisition (1) is consistent with the company's portfolio objectives and (2) compares favorably to the range of alternative options reasonably available to the company at the time of the acquisition or contract negotiation. Id.

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to the portfolio objectives established in a recently approved forecast and requirements plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the resource proposal. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of price and non-price attributes, the Department considers whether the pricing terms are competitive with those of the broad range of capacity, storage, and commodity options that were available to the LDC at the time of the acquisition, as well as those opportunities that were available to other LDCs in the region. Id. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives, including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29. In making these determinations concerning a gas supply acquisition, the Department considers whether the LDC used a competitive solicitation process that was fair, open and transparent. The Berkshire Gas Company, D.T.E. 02-56, at 9 (2002); Bay State Gas Company, D.T.E. 02-52, at 8 (2002); KeySpan Energy Delivery New England , D.T.E. 02-54, at 9 (2002); The Berkshire Gas Company, D.T.E. 02-19, at 11 (2002).

IV. ANALYSIS AND FINDINGS

A. The Request for Proposals Process

An RFP process is acceptable if the process is "fair, open, and transparent." D.T.E. 02-56, at 9; D.T.E. 02-52, at 8; D.T.E. 02-54, at 9; D.T.E. 02-19, at 11. In the instant proceeding, the bid solicitation and evaluation process was clearly explained to each potential bidder and the evaluation criteria were provided (Exhs. A; DTE 1-2; Tr. at 7). Bidders were given the opportunity to request clarification of the evaluation criteria of the RFP, and the due date for bids was extended in order to give all suppliers the opportunity to submit a competitive bid (Exhs. A; DTE 1-2). In addition, Blackstone evaluated and selected the winning bid based on the criteria set forth in the RFP (id.; Tr. at 7). Moreover, the Company received no objections to its RFP process (Exh. DTE 1-3). Accordingly, the Department finds that Blackstone's RFP process was fair, open, and transparent.

B. The Hess Contract

Blackstone's portfolio objective is to secure a reliable and flexible gas supply at least cost (Exh. DTE 1-4; Tr. at 7, 11). Specifically, the proposed Hess contract provides the Company with firm gas supply sufficient for all of Blackstone's gas requirements, plus room for load growth on a least-cost and flexible basis (Exhs. A; DTE 1-4). Therefore, the Department finds that the Hess contract is consistent with Blackstone portfolio objectives described in this filing (Exhs. A; C (confidential); DTE 1-4; Tr. at 7, 11).

In addition, we find that the Hess contract compares favorably to the range of alternatives available to Blackstone. Under the gas supply contract, Hess will supply

Blackstone with all of its daily requirements in a reliable, flexible, and least-cost manner (Exhs. A; C (confidential); DTE 1-4; DTE 1-5; Tr. at 8-12). Specifically, the contract provides the Company with firm supply of gas of at least 2,000 MMBtu per day at least-cost, which is sufficient for all of Blackstone's requirements plus room for load growth (id.). The Company's witness testified that least-cost was not Blackstone's only consideration in awarding Hess the contract because the Company also took risk-mitigation into account (Tr. at 11). Hence, under Hess's proposal (versus the competing offer), the Company will not be exposed to risk for fuel, fuel losses and overruns, and penalties (id.). Because the contract is an all-requirements contract, Blackstone is ensured of complete flexibility of nominations due to Hess's resources (Exhs. A; DTE 1-5). That is, the Company will receive exactly what it needs every day, despite what the daily load is or how much Hess nominates up to the maximum daily amount established in the contract (id.). Blackstone's contract is a least-cost, firm all-requirements contract, and the supply is reliable and ensured due to Hess's diverse supply portfolio (id.). Therefore, we find that Blackstone's contract is in the public interest. For the reasons stated above, the Hess contract is approved.

V. ORDER

After due notice, hearing, and consideration, it is

ORDERED: That the Blackstone Gas Company's petition for approval of a gas contract executed with Amerada Hess Corporation is ALLOWED.

By Order of the Department,

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Paul G. Afonso, Chairman

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

\s\

Judith F. Judson, Commissioner

\s\

Brian Paul Golden, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.